

North Carolina 911 Board
MINUTES
May 9, 2008

| <u>Members Present</u> | <u>Staff Present</u> | <u>Guest</u> |
|------------------------------------|-----------------------------|--|
| Jason Barbour (NCNENA) | Ron Adams (ITS) | Craig Blackwood (Orange Co ES) |
| Wayne Bowers (NCLM) | Richard Bradford (DOJ) | Jerry Boggs (NCNENA/Catawba Co E911) |
| Frank Cairon (CMRS) | Marsha Tapler (ITS) | Lee Canipe (Embarq) |
| Robert Cherry (Police Chief) | Richard Taylor (ITS) | Valerie Carter (ITS) |
| Alan Cloninger (Sheriff) by phone | | Jim Clark (Synergem) |
| Dave Corn (LEC) | | Delbert Edwards (NCAPCO) |
| Bill Craigle (CMRS) | | Karen Fink (Verizon Business) |
| Christi Derreberry (CMRS) by phone | | Topper Hightower (AT&T) |
| David Dodd (NCAPCO) | | James McLeod (Embarq) |
| Jerry Jones (LEC) | | Kevin Medlin (Orange Co ES) |
| Wesley Reid (NCNENA) by phone | | Tonya Pearce (NCNENA) |
| Slayton Stewart (CMRS) | | Karlynn O'Shaughnessy (NCGA) |
| Laura Sykora (LEC) | | Marsha Withrow (NCAPCO / Charlotte Fire) |
| Jean Thaxton (LEC) | | Donna Wright (NCNEA/Richmond Co 911) |
| Bill Willis (Deputy NC CIO) | | |
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| <u>Members Absent</u> | <u>Staff Absent</u> | |
| Joe Durham (NCACC) | | |
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Chair's Welcoming Remarks:

Chairman Willis called the meeting to order at 10:00 AM, especially thanking everyone for contributing their time given the issues some counties were facing due to last night's storms.

Ethics Awareness/Conflict of Interest Statement

Chairman Willis read the conflict of interest statement printed on the agenda and asked if any Board members wished to note any potential conflicts. None were cited.

Approval of Minutes

Chairman Willis asked if any member of the Board wished to offer any corrections to the minutes of the April 11, 2008 NC 911 Board meeting. Hearing none, Slayton Stewart made a motion to accept the minutes as presented, Bill Craigle seconded, and the motion carried unanimously.

Update on PSAP Fund Distribution – Update On Revenues Received to Date & PSAP Revenue Reconciliation

Referring to the spread sheet projected on-screen, Richard Taylor explained changes which had occurred since the last meeting. He noted that discrepancies between Wireless Board accounting and Treasurer's Report values for the PSAPs highlighted in green had been resolved and that those highlighted in gold are still being worked on. He drew attention to values representing the April 08 revenues due to be distributed on May 15, as well as the balance owed each of the PSAPs by June 30. He said we only collected \$4.9M during the month of April when we needed \$5.2M. He added that we are seeing a pattern where payments due during a "short" month (30 days) like April often arrive early the following month. He said he is still confident that sufficient revenues will be available, noting that some companies are still sending their checks directly to the PSAPs. He said he learned that the County Commissioner's Association had distributed an email telling local government officials that if the checks came directly to them they should just keep the checks or send them to the Board. Mr. Taylor pointed out that is incorrect. The checks should be returned to the phone companies which should then remit to the Board.

Mr. Taylor said all the wireline telephone companies have been contacted, and with the exception of only one have reported to the Board the amount of revenues they sent to the PSAPs during fiscal 2006-2007 so those amounts can be reconciled to the Treasurer's Report. He has contacted the one company that has not replied, and they are working on locating the report.

Laura Sykora asked if we were receiving remittances from VoIP providers, and Mr. Taylor replied that those revenues have steadily increased each month, and that we received nearly \$0.5M from them in April. He indicated a spread sheet was available in the agenda book online as Item 04c, but Jason Barbour said it wasn't there. Mr. Taylor asked Ron Adams to post it after the meeting.

Wayne Bowers asked Mr. Taylor to refresh his memory regarding remittances from prepaid providers, stating he believed they were not currently being collected. Mr. Taylor confirmed that was the case, adding that any remittances from prepaid providers that had been received after the legislation change had been put aside and were not part of the current financial reporting. He also added that despite that lack of revenue from prepaid, total wireless revenues have continued to increase.

Mr. Taylor also reported on a discovery made just the day before regarding Oak Island. He related how Oak Island had initially been a wireless Primary PSAP, had relinquished that status, then subsequently requested and received Primary PSAP certification

again. He said that, unfortunately, the return to Primary PSAP certification took place in mid fiscal year 2006-2007, with wireless payments to them resuming only in March of 2007. The net result was that only \$63K in revenue was reported to the Treasurer's Office in FY 2006-2007. Mr. Taylor reported that just with the wireless payments they received from July 2007 through March 2008, they have received \$5,675.00 in excess of that \$63K. He said that while he will be requesting a refund of the overpayment, the problem is that the amount reported to the Treasurer's Office only represents less than half a year's revenue, but because of the way the statute is written, their base distribution is limited to no more than that amount.

Mr. Taylor said that after consulting with Richard Bradford, he sees no options for the Board to pursue to resolve the problem. Chairman Willis asked Richard Bradford if it would be possible for the Board to deal with this as a technical correction, and Mr. Bradford replied that due to the number of issues involved here that are beyond the scope of a technical change he would think not. He did speculate, however, that when Oak Island gave up its Primary PSAP status, a portion of the money that had been going to it reverted to the county, so the total amount of money did not change; it just went to a different payee. He said that perhaps a solution could be that the town of Oak Island and the county should talk about the division of that money.

Chairman Willis asked Richard Taylor to speak to both of those entities to see if some arrangement could be made to ensure that PSAP doesn't fail to support the citizens it is supposed to support because of the funding shortfall. Wayne Bowers asked if revenues for the first six months of fiscal 2007-2008 were being considered in meeting the total base amount payment obligation to the PSAP under the new legislation, and Richard Taylor replied that was correct. Dave Corn asked Mr. Taylor if it was his intention when brokering an agreement between Oak Island and Brunswick County to fund Oak Island as a secondary PSAP. Mr. Taylor replied that was not his intention; that he would try to have the county allocate the additional funding it received when Oak Island was not a Primary PSAP back to Oak Island now that it is again a Primary PSAP.

Approval of Amended Policies and Procedures

Richard Taylor reminded everyone that during discussion about legislative technical corrections at the last meeting we identified several areas we were looking at, and one of those was authorizing pre-arrival instruction protocols as being eligible for use of funds. Mr. Taylor said Richard Bradford had indicated that would be better addressed as a policy rather than as a technical correction. That has now been added to the approved use of fund list.

Update on Rule Making

Richard Bradford reported the Rule Making Committee has been meeting and has arrived at a close-to-final draft of the proposed rules. He mentioned that tying in with Richard Taylor's earlier comments about EMD, a definition of EMD that had initially been included in the rules draft has been removed to be placed in the policies and procedures. He said it is really not necessary for the definition to be in the rules, since there are other protocols of a similar purpose or nature, so it is better to move it to

policies and procedures, where those things may change. That way they could be changed more easily than if they were in administrative rules.

Mr. Bradford said that there will be an opportunity for public comment at a later time during the rule making process, after we go through the preliminaries with the Rules Review Commission. He encouraged Board members to offer comments between now and that time, which is probably a few months out. He said that he would hope comments would come back relatively quickly so that they can be addressed, and if necessary, another rules committee meeting could be convened. He added that the next step is to contact staff at Rules Review, which he and Ron Adams will do, to sit down and talk with the attorneys on that staff about the rules themselves and the authority, to see if they have any issues.

Laura Sykora asked Mr. Bradford if the Board will take action before or after public comment. Mr. Bradford replied it could be both. He said the Board will take some action based upon the recommendations of the Rules Review staff, that there is an opportunity for public comment at the Rules Review Commission, and when they receive public comment they may have specific recommendations or they may reject certain rules. Then it will come back to the Board for action. Mr. Bradford observed that most of the time it is prudent to simply take their advice; they give pretty good advice.

Jerry Jones asked how public comment happens. Mr. Bradford said there is an open meeting, after notice, and there will be an item on the agenda allowing people to appear like they do in other public meetings. Mr. Jones asked if this would be a Rules Review meeting or a 911 Board meeting. Mr. Bradford replied it would be a Rules Review meeting, adding that the Board could also have an open meeting for public comment if it so desired, adding that was generally advisable. Chairman Willis indicated we would do that.

Update on Legislative Corrections

Richard Taylor reported he had submitted the proposed corrections approved at the last Board meeting to the Revenue Laws subcommittee, which he has met with twice. Initially, the thought was it might be best for this to go forward as a stand-alone bill, since it needs to be passed before June 30 because of the funding situation regarding transferring CMRS funds to make PSAPs whole by that date if necessary. After discussion with the co-chairs, however, they felt it could be rolled into their Revenue Laws bill package, which includes about ten or so other bills. Mr. Taylor said they had their final meeting this past Wednesday; they did roll it into that particular package; and they reassured him that it would be heard early in the session. He also said he heard no negative comments from anyone regarding our proposal, so those changes should go to the Legislature when it goes into session next week, and hopefully move quickly through the process.

Recommendations From Use of Fund Committee

David Corn reported the Use of Fund Committee has two recommendations to present. The first one has to do with signage. Mr. Corn said that based upon reasons that have been discussed by the full Board, as well as additional reasons discussed in committee,

the committee recommends that no street sign related expenses be eligible for use of 911 funds at all. He added one of the largest reasons was the belief that our charter is primarily built around trying to improve technology in the State for 911 service.

Mr. Corn said the second issue was much more difficult for the committee. He said the committee was focused on satisfying the legal requirements of the statute, adding that committee members also wanted to satisfy the need for staff to be able to manage whatever policy was put into place and reflect the will of the Board. Mr. Corn noted that the committee was trying to find a way to fund the function that supports the technology that goes into 911 call taking, without limiting too much the PSAPs' ability to change as the technology changes. He credited Richard Bradford with helping them develop and refine the language they ultimately came up with, and asked Richard Taylor to read the proposed language aloud.

Mr. Taylor explained that all four earlier references to allowing a percentage of FTE or contractual costs will be deleted, and read the substitute language aloud:

The costs for functions implemental to receiving and utilizing voice and data at the appropriate PSAP will be considered as an eligible 911 system expense. Any PSAP must provide adequate documentation upon request indicating the appropriate statutory authority supporting the cost of providing those functions.

Mr. Taylor summarized the committee recommendation is to repeal use of funds for any street sign related expenses, to repeal the "FTE or contractual costs" language in the use of fund list for software, telephone system, hardware, or addressing, and to replace it with the language he had just read.

Chairman Willis said he would like to ask a couple of questions, observing that he doesn't believe the intent here is to stop funding necessary 911 expenditures, but instead to establish the proper way of demonstrating why those expenses should be eligible. He asked if staff or committee members could cite an example of how a PSAP would justify an expense such as database maintenance as eligible, acknowledging that this question had not been discussed beforehand. Richard Taylor gave a "fifty thousand foot answer" example of where a PSAP would claim \$1,000.00 for database maintenance and state that a portion of that \$1,000.00 was used to perform database maintenance as stated in the legislation, and part of that \$1,000.00 was appropriated toward the salary of the individual who performed that maintenance as well as providing the necessary hardware to accomplish database maintenance. Chairman Willis characterized what he understood Mr. Taylor had said as someone saying "We performed this database function and our estimation of the cost to do that is this amount of money." He speculated that as we receive reports from 129 PSAPs, we will have 129 data points of roughly how much it costs, probably with examples of contractual and non-contractual costs, for database maintenance for a certain number of addresses or other unit of measurement. So then we'll have the ability to look across those data points and determine if they are reasonable or not. He speculated that if we see an unusual number we can say "We don't understand this number"; we can perform our fiducial responsibility to look into it, but we're not deciding whether a local entity chooses to contract something or to do it with their people.

Chairman Willis suggested a short break to allow members to read through this language and think about it, and then continue discussion when the meeting resumes. The break began at 10:46 AM, and the meeting resumed at 10:58 AM.

After the break Chairman Willis noted that the recommendation from the committee was on the table, and asked if there was anything else that members of the committee would like to add to the discussion before entering into a general discussion. Jason Barbour said that during the break several PSAP representatives in attendance had expressed some confusion over how to satisfy the new requirements, and asked if further examples could be offered of what's expected of them, how they go about doing it, etc. Chairman Willis said he thinks there are options; that there are a couple of ways they could approach it. He suggested how he might approach it with an example. He said that one of the eligible functions is database maintenance for the address database and some other things. He said he believed you could put in a cost of, say, 15% of a person's time managing this database. He explained that person's loaded cost is salary plus benefits plus the computer they use, etc., and that's what it could be. Or, he added, it could be that somebody has a contract to manage and maintain this address database, and that contract and price would be reported. He said those are two ways he would approach that particular type of expense.

Chairman Willis speculated that we are going to get a lot of reports saying "this is what it cost me to do this for this many people", adding that it is going to be really interesting to see it unfold and we're all liable to learn something. Some of us are going to learn that their people don't get much done with their time, others of us are going to learn that we've got people that are really efficient; some of us are going to learn that we got into a bad contract, others of us are going to learn that we got into a really good contract. Chairman Willis said that over a period of time he thinks that will be quite useful information for everybody. He said that he thinks everybody should understand that for a county with very few people, their database maintenance might not be as efficient on a per address basis as a county with far greater numbers. He said the way he would present it is "it costs me this much to do this function". Then, as it is public information, everybody would have the ability to look their own costs versus other people's costs, presenting an opportunity to improve management of 911 funds.

Jerry Jones observed that the funding the PSAP receives is based upon what they reported to the State Treasurer last year. He asked what we would do if their entire eligible costs didn't even come to that amount, his point being that the basis of funding is not on what they need, but what they got. Richard Taylor said he thinks that problem is part of the reason this new Board was created with the single rate, because each year the legislature noted with the Treasurer's Report that some very large fund balances were being accumulated by many PSAPs. He said that at the same time there were many PSAPs who had close to no balance, or were even in the hole and having to borrow money to operate with. So one of the questions that the Wireless 911 Board was constantly asked was "How much does it cost to do 911 in North Carolina". The answer has always been "We don't know. We have no idea".

Mr. Taylor said he thinks part of this process of going to a unified Board and a unified collection is to get a handle on what those costs are so that we can see how to best distribute those funds; so that we can see what is necessary to operate 911 in North

Carolina. He said he thinks that is part of what this Board's responsibility is. Chairman Willis added that the approved use of fund list is sort of a definition for what a cost for 911 should be. He said another thing he thinks we should consider as a Board is that laws aren't forever. They're meant to get something done for a period of time and then they get looked at again. They are supposed to move, to respond to what we know. Chairman Willis said his "non-lawyer" interpretation of the revised statute is that there was a belief that we needed to have a better understanding of need, and more assurance that this money being collected delivered what it was supposed to deliver at the expected level of quality; that it was appropriately being collected and used. So, in moving forward with gaining that understanding, he feels you need to study it, which was the stimulus for the Comprehensive Statewide Plan study currently underway; you begin to place a body in control of the management of that funding that can define what costs are, which is this Board; and you make sure that during the transition nobody gets hurt terribly and ensure they have time to respond to the new legislation so that the citizens or the people who are supposed to get supported by the PSAPs that are in place and are working hard don't get harmed. Chairman Willis said that is what this base amount of money is for, to ensure no one is harmed.

He added he would assume that in writing such a fixed distribution cost law it would either be viewed as a transitional situation, or, that growth would drive enough revenue that that would set a base and then there would be funding to do things and drive change in the right direction following it. He mentioned we have recommended technical change to legislation in an earlier item today. He said that armed with the results of a study and real data, a definition and an understanding of costs, which have not been available for both wireline and wireless to date, he thinks this Board has the ability to suggest appropriate controls and mechanisms so that 911 in North Carolina is appropriately funded and correctly delivered. He said that while this base distribution model may seem constraining, we need to allow ourselves time and look at some hard definitions in order to come to a place to act responsibly and suggest how things might be able to change. Apologizing for the "speech", Chairman Willis told Mr. Jones that was the best answer he could give to his question. Mr. Jones replied that if it is workable, he is in favor of the "broad category" rather than "getting into the weeds".

Jason Barbour asked if this meant that local governments would no longer be required to submit job descriptions for Board staff to approve, and Chairman Willis agreed that was the case. Now local governments will be reporting "this much cost for this function". He speculated that a lot of them will be reporting such costs, which will set baselines that will make it obvious when anyone gets out of line; so that is a control mechanism. Richard Taylor added that the statutory authority the new language regarding to functions refers to is 62A-46(c)(1).

Noting that many PSAP representatives were in attendance as guests, Chairman Willis offered to allow them to address the Board if they wished to. Marsha Withrow with Charlotte Fire asked if consideration was going to be given to the size of the agency reporting costs when attempting to determine baseline expenses for all PSAPs. Chairman Willis said absolutely yes, and although he didn't have a specific idea for how to factor that in, he speculated that one measure might be cost per thousand. He said that if you are from Charlotte and have "many thousands" he would expect you to be able to do it a little more cheaply than someone who doesn't have "many thousands".

He said nobody is trying to add any irrationality to this, and his hope would be that by making these numbers available to people who are operating things the necessity for this Board to question atypical claims would never arise.

Chairman Willis asked for a motion to either accept or reject the committee's recommendation. Jason Barbour said he would make a motion provided we add an "effective date" (July 1, 2008) to the second part as had been specifically stated in the first part, and Slayton Stewart seconded. Laura Sykora asked if that meant that until June 30, 2008, the FTE language currently within the approved use of fund list would apply, and Chairman Willis agreed that was the case. The motion carried unanimously, with no abstentions.

Draft of NSI (Non Service Initialized) PSAP Phone Survey

Richard Taylor reminded everyone about the Tennessee petition to the FCC requesting it revisit the non-initialized phone issue. The FCC did take action on that, releasing a Notice of Inquiry on April 7, 2008. It has not been posted in the Federal Register yet, so the clock has not started ticking on soliciting comments. Mr. Taylor said that when that opportunity does arrive, he wants the Board to file in support of the State of Tennessee, but that in order to do that we need to solicit our own data regarding NSI phone calls in North Carolina. In an effort to encourage participation, after consulting with both the FCC and his counterparts in other States, he has developed a survey form that only requires telecommunicators to enter a hash mark when they receive an NSI call indicating whether it is an emergency or is not an emergency. Chairman Willis asked if such information could not be collected automatically by equipment, and Mr. Taylor replied that although many providers code their NSI phone calls with 911 in the area code field of what would normally be the telephone number, not all of them do. He also added that even if the call were identified as coming from an NSI phone, there would be no way for the equipment to determine whether it was truly an emergency or was a misdial or hang-up instead.

Richard Bradford observed that many providers are concerned about potential liability associated with turning off such a phone to prevent 911 access. In this Notice of Inquiry the FCC has specifically asked the provider community to explain what kind of liability they fear and their arguments as to what the problem is; whether it's civil, criminal, etc. Mr. Bradford added that North Carolina and some other States' statutes provide that misuse of the 911 system is a misdemeanor punishable by a \$100.00 fine, noting that from a practical standpoint it is difficult to get a DA to prosecute somebody for that.

Laura Sykora asked if this would be something the Board would comment on along with providing this data. Richard Bradford replied the Board can comment, but he thinks it more appropriate for the providers to do that. He said that if the Board wants to file a comment or a reply comment, typically that is something he would draft under the Board's direction and then file.

David Dodd asked Richard Taylor if staff would prefer PSAPs compile the results for a month and send them at one time. Mr. Taylor said that would be preferable, but staff would be willing to work it in any way that best accommodates PSAP needs. Chairman Willis acknowledged guest Delbert Edwards from Wayne County 911, who offered a

suggestion to add an additional column to the form for malicious calls. Richard Taylor said he could do that, and Chairman Willis thanked Mr. Edwards for an excellent suggestion. Jason Barbour asked how quickly it would go out to the PSAPs, and Richard Taylor replied he could get it out on the NCAPCO/NENA listserv this afternoon and Ron could post it to the website this afternoon as well. Chairman Willis asked when Richard Taylor wanted to begin collecting data, and Richard replied he would like to start immediately since there will only be a 45 day window once it hits the Federal Register. He suggested collecting data beginning May 15 and ending June 15.

Update of PSAP Revenue/Expenditure Reports

Ron Adams reported that the fiscal 2007 reports are all complete but two. One is the City of Lenoir, with whom Richard Taylor is working regarding questions about their fund distribution. The second is Swain County, with whom some accounting discrepancies still need to be resolved with Marsha Tapler. Ron reported having received 14 returns of the July-December 2007 reports that were requested following the last meeting. Of those, 8 have been approved and 6 contain some entries requiring clarification, which are being addressed. The remainder of the 129 PSAPs has not yet submitted reports, but the requested final submission date is June 16, so they still have some time to go.

Other Items

Richard Taylor offered an update on the progress on the Comprehensive Statewide Plan project Intrado is performing. He reported that wireless carrier and telco surveys had been circulated, but had prompted many questions. Due to those questions, Mr. Taylor has instructed Intrado to move ahead with drafting their plan, and if they encounter any areas where they cannot proceed without carrier information, he has asked them to submit the plan with those areas left blank, and then when they present the report to the Board we will work with them to provide the necessary information. He said that between information collected from the PSAPs and internal Intrado information, particularly in the wireless arena, they may have access to much of the information they were seeking in the survey. Mr. Taylor concluded we will not be pressing people to complete the surveys, but will instead fill in the blanks only when and if they present themselves.

Chairman Willis noted that it had been brought to his attention that a North Carolina member of NENA is on the ballot for Southeastern Regional Representative, and acknowledged guest Delbert Edwards to speak about it. Mr. Edwards said that the only contested race on the National NENA ballot for the Executive Board this year is for Southeastern Regional Representative, and that Brenda Hewlett, Acting Director of New Hanover County 911 and an active member in NCNENA since its inception, is one of the candidates for that seat. Further noting that she has over 30 years' experience in 911, he asked Board Members to please consider Ms. Hewlett in casting their ballots.

Adjourn

Chairman Willis entertained a motion to adjourn, Wayne Bowers so moved, Bill Craigle seconded, and the motion carried unanimously. The meeting adjourned at 11:31 AM.

